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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 RONALD EUGENE JAMES,

12 Plaintiff,

13 v.

14 SACRAMENTO COUNTY SHERIFF'S
15 DEPARTMENT, et al.,

16 Defendants.
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No. 2:23-CV-0853-KJM-DMC-P

ORDER

18 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to
19 42 U.S.C. § 1983. Pending before the Court is Plaintiff's motion to disqualify the undersigned
20 and for a change of venue. See ECF No. 15.

21 Plaintiff's motion is governed by 28 U.S.C. § 144, which provides as follows:

22 Whenever a party to any proceeding in a district court makes and files a
23 timely and sufficient affidavit that the judge before whom the matter is
24 pending has a personal bias or prejudice either against him or in favor of
any adverse party, such judge shall proceed no further therein, but another
judge shall be assigned to hear such proceeding.

25 Berger v. United States, 255 U.S. 22 (1922), is the primary case interpreting § 144. See U.S. v.
26 Azhocar, 581 F.2d 735, 738 (1976). As a preliminary matter, the Court in Berger held that the
27 judge against whom a disqualification motion is brought may pass on its legal sufficiency. See
28 Berger, 255 U.S. at 233. To be sufficient, the motion must state facts which, if true, fairly support

1 the allegation of bias or prejudice which stems from an extrajudicial source and which may
2 prevent a fair decision. See Azhocar, 581 F.2d at 740-41. Thus, the Supreme Court in Berger
3 also held that adverse rulings alone cannot constitute the necessary showing of bias or prejudice.
4 See Berger, 255 U.S. at 34.

5 Here, Plaintiff complains that the Court has not issued substantive rulings
6 addressing his claims. See ECF No. 15. Plaintiff's argument is belied by the docket in this case
7 which reflects that the Court has addressed the sufficiency of Plaintiff's pleadings, determined
8 service is appropriate, and ordered Plaintiff to submit documents necessary for service by the
9 United States Marshal. See ECF Nos. 16, 18, 19, and 21. In any event, Plaintiff's current motion
10 does not set forth any facts indicating bias or prejudice from an extrajudicial source which would
11 prevent a fair decision in this case. Finally, because Plaintiff's complaint alleges constitutional
12 violations which took place at the Sacramento County Main Jail, venue is proper in the
13 Sacramento Division of this Court.

14 Accordingly, Plaintiff's motion to disqualify the undersigned and for a change of
15 venue, ECF No. 15, is denied.

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17 Dated: October 4, 2024



18 DENNIS M. COTA
19 UNITED STATES MAGISTRATE JUDGE
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